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PATENT  
ATTORNEY DOCKET NO.: 044574-5040-US

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

|   |   |                        |
|---|---|------------------------|
| In re Application of: Patrick C. KUNG <i>et al.</i> | ) |                        |
|   | ) |                        |
| Application No.: 09/830,033                         | ) | Group Art Unit: 1631   |
|   | ) |                        |
| Filed: October 22, 2001                             | ) | Examiner: Cheyne D. Ly |
|   | ) |                        |
| For: PHYTOMICS: A GENOMIC-BASED                     | ) |                        |
| APPROACH TO HERBAL COMPOSITIONS                     | ) |                        |

United States Patent and Trademark Office  
Customer Service Window  
Randolph Building  
401 Dulany Street  
Alexandria, VA 22314

Sir:

**AMENDMENT TRANSMITTAL FORM**

1. Transmitted herewith is an Amendment responding to the Office Action dated June 7, 2005.
2. Extension of Time

The proceedings herein are for a patent application and the provisions of 37 C.F.R. § 1.136(a) apply. Applicant petitions for an extension of time, the fees for which are set out in 37 C.F.R. § 1.17(a), for the total number of months checked below:

|                        |                                  |
|------------------------|----------------------------------|
| Total Months Requested | Fee for Extension (Small Entity) |
| Two                    | \$ 225.00                        |

Extension of time fee due with this request: \$225.00. If an additional extension of time is required, please consider this a Petition therefor.

3. Constructive Petition

☒ EXCEPT for issue fees payable under 37 C.F.R. § 1.18, the Commissioner is hereby authorized by this paper to charge any additional fees during the entire pendency of this application including fees due under 37 C.F.R. §§ 1.16 and 1.17 which may be required, including any required extension of time fees, or credit any overpayment to Deposit Account 50-0310. This paragraph is intended to be a CONSTRUCTIVE PETITION FOR EXTENSION OF TIME in accordance with 37 C.F.R. § 1.136(a)(3).

4. Fee Calculation (37 C.F.R. §1.16)

| CLAIMS AS AMENDED                                     |   |       |                                |                  |              |            |
|---|---|-------|--------------------------------|------------------|--------------|------------|
|   | Claims<br>Remaining<br>After<br>Amendment |       | Highest No.<br>Previously Paid | Present<br>Extra | at Rate of   | Total Fees |
| Total Claims<br>(37 C.F.R. §1.16(c))                  | 3   | minus | 81                             | 0                | x \$18 each= | + \$       |
| Independent Claims<br>(37 C.F.R. §1.16(b))            | 1   | minus | 18                             | 0                | x \$86 each= | + \$       |
| [ ] First presentation of Multiple dependent claim(s) |   |       |                                |                  | \$290.00     | + \$       |
| SUB-TOTAL =   |   |       |                                |                  |              | \$         |
| Reduction by ½ for filing by a small entity           |   |       |                                |                  |              | - \$       |
| TOTAL FEE =   |   |       |                                |                  |              | \$ 0       |

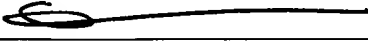
5. Fee Payment

- ☒ The Commissioner is hereby authorized to charge \$225.00 for a two-month Extension of Time to Deposit Account No. 50-0310.
- ☒ The Commissioner is hereby authorized to charge any additional fees which may be required, including fees due under 37 C.F.R. §§ 1.16 and 1.17, or credit any overpayment to Deposit Account 50-0310.

Respectfully submitted,

**MORGAN, LEWIS & BOCKIUS LLP**

Dated: November 7, 2005

By:   
Erich E. Veitenheimer  
Reg. No. 40,420

**CUSTOMER NO. 09629**  
**MORGAN, LEWIS & BOCKIUS LLP**  
1111 Pennsylvania Avenue, N.W.  
Washington, D.C. 20004  
Telephone: (202) 739-3000  
Facsimile: (202) 739-3001



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**AMENDMENT AND RESPONSE UNDER 37 C.F.R. 1.111**

This Amendment and Response is filed in reply to the Office Action dated June 7, 2005, the period for response having been extended from September 7, 2005 to November 7, 2005, by payment of a two-month extension of time fee.

11/09/2005 HALI11 00000007 500310 09830033  
01 FC:2252 225.00 DA